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**FloorPrep**

**Legislative Digest**

**Thursday, June 29, 2000**

*The House will meet at 10:00 a.m. for Legislative Business*

*Anticipated Floor Action:*

**H.R. 4461—FY 2001 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act**

**H.R. 4425—Military Construction Appropriations Act, FY 2001 (Conference Report)**

**H.R. 1304—Quality Health-Care Coalition Act of 2000**



**Bills Considered Under a Rule**

**H.R. 4461—FY 2001 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act**

**Floor Situation:** The House is scheduled to consider H.R. 4461 on Thursday, June 29, 2000. The Rules Committee met on Wednesday, June 28, 2000 and granted an open rule providing for one hour of general debate, equally divided between the chairman and ranking minority member of the Committee on Appropriations. The rule waives House rules that prohibit unauthorized legislative provisions in an appropriations bill, except for those parts of the bill beginning with section 741 until the end of the bill (including the Nethercutt Amendment). The rule provides that the bill shall be considered for amendment by paragraph and accords priority in recognition to members who have their amendments pre-printed in the *Congressional Record*. It permits the Chairman of the Committee of the Whole to postpone votes and reduce the voting time on a postponed vote to five minutes, so long as it follows a regular 15-minute vote. Finally, the rule provides one motion to recommit, with or without instructions and that H.Res. 513 is laid on the table.

## Highlights:

H.R.4461 appropriates \$75.3 billion in new FY 2001 budget authority for agriculture programs, \$524 million less than last year and \$1.8 billion less than the president's request. Much of the mandatory spending goes toward (1) food stamps (\$21.2 billion), (2) the Food and Drug Administration (\$1.2 billion), (3) child nutrition programs (\$9.5 billion), (4) the Federal Crop Insurance Corporation (\$1.7 billion), and (5) the supplemental nutrition program for Women, Infants, and Children (WIC, \$4 billion).

In addition, the bill increases funding for Farm Service Agency salaries and expenses by \$34 million, for agriculture credit programs by \$1.4 billion, Rural Housing loan authorizations by \$484 million, and there is a new \$35 million increase through a Special Supplemental Nutrition Program for the Women, Infants and Children (WIC) program.

At press time the *Legislative Digest* was aware of the following amendments to H.R. 4461. [Note: Because many similar or identical amendments have been submitted by more than one Member, they are listed numerically, rather than alphabetically and where appropriate have been placed together for purposes of description]. Any additional amendments to H.R. 4461 not listed below will be provided in a separate *FloorPrep* Update.

**Mr. Hefley** may offer an amendment (#1) cuts \$200,000 from special research grants, specifically targeting "International Asparagus Competitiveness" *Staff Contact: Annissa McDonald, x5-4422*

**Mr. Hefley** may offer an amendment (#2) that reduces funding for the Agri-tourism program, funded through the Rural Community Advancement program, by \$2 million (the program was originally appropriated \$2 million). *Staff Contact: Annissa McDonald, x5-4422*

**Mr. Andrews** may offer one or more amendments (#4, #5, #12, #23) that adds a general provision under Title VII of the bill. The provision amends the Housing Act of 1949 requiring the Housing Secretary to guarantee a refinancing loan with a fixed interest rate that does not exceed the previous loan. This refinanced loan must also meet four additional requirements: it must be secured by a single family residence, the principal obligation must not exceed the sum of the loan being refinanced, borrowers can not miss more than two months of repayment, and the term of refinancing must not exceed the original loan by more than ten years. *Staff Contact: Charles Matlew, x5-6501*

**Mr. Coburn** may offer an amendment (#6) that prohibits the development or approval of any drug intended solely for the chemical inducement of an abortion. The word solely ensures this prohibition will have no effect on the development of well intentioned drugs. *Staff Contact: Roland Foster, x5-2701*

**Messrs. DeFazio and Bass and Ms. Morella** may offer one or more amendments (#7, #26, #39) that cap spending for the Wildlife Service's Animal and Plant Health Inspection Service at the administration's request of \$28.6 million. The amendment also prohibits federal expenditures for the killing of animals such as coyotes, mountain lions, and foxes when they threaten livestock. The amendment does allow the Wildlife Service to continue non-lethal livestock predator control while

not inhibiting private or state funded predator control.

**Ms. Kelly-Kanjorski** may offer an amendment (#8) to strike the provision in the bill which would prohibit funding in the bill to go to the American Rivers Initiative. *Staff Contact: Al Garesché, x5-5441*

**Messers. Kucinich, Metcalf and Sanders** may offer an amendment (#9) that would include H.R. 3377, The Genetically Engineered Food Right To Know Act, in the Agricultural appropriations bill. H.R. 3377 requires all genetically engineered food to have a “neutral label” that states the food product was genetically engineered. *Staff Contact: Auke Piersma, x5-5871*

**Mr. Ney** may offer an amendment (#10, #18) that increases funding for the North Appalachian Experimental Watershed (NAEW) research station by \$100,000. This station (funded through the Agricultural Research Service) conducts research on projects ranging from the effect of pesticide run-off on ground water to how pesticide run-off from farms in the Midwest creates “dead zones” in the Gulf of Mexico. The money will allow the NAEW to continue its research. The amendment creates the funds for NAEW by taking close to equal cuts from accounts within the USDA, the Office of Communications, and the Office of the Inspector General. *Staff Contact: Jeff Janas, x5-6265.*

**Mr. Royce** may offer one or more amendments (#11, #47) that reduce the total FY 2001 Agriculture Appropriations bill funding by 1 percent. *Staff Contact: Edward Burrier, x5-4111*

**Mr. Capuano** may offer an amendment (#13) that will require the president to report to Congress one year after economic sanctions are lifted on a country that the government of that country is not impeding the delivery of food and medicine to its citizens. *Staff Contact: Michelle Mancini x5-511*

**Ms. Kaptur** may offer an amendment (#14) that adds \$53.1 million to supplement the Plant and Animal Health Inspection Service, to be used to prevent, control and eradicate pest, plant and animal diseases. The amendment includes a provision that the funds be designated as an emergency requirement, and that the funds will be available only to the extent that the specific amount is requested with the emergency requirement designation by the president. *Staff Contact: Roger Szemraj x5-4146*

**Ms. Kaptur** may offer an amendment (#15) that adds a general provision to Title VII of the bill allowing the Secretary, upon declaring an emergency, to provide up to \$80 million of the funds appropriated for the Commodity Credit Corporation for use in assist negatively impacted small and medium sized farmers, farm cooperatives and farm enterprises. *Staff Contact: Roger Szemraj x5-4146*

**Mr. Goodling** may offer an amendment (#16) that expands the quality loss payments for apples and potatoes to plums affected by the plum pox virus. The Agriculture Secretary listed the plum pox virus in Adams County, Pennsylvania as an “extraordinary emergency” on March 2<sup>nd</sup>, 2000. The virus has been in Europe for almost 100 years and has destroyed many orchards on the continent. The Adams County outbreak is the first discovery of the disease on the North American continent. *Staff Contact: Ron Englebert, x5-5836*

**Mr. DeFazio** may offer one or more amendments (#19, #40) that cap spending for the Wildlife Service's Animal and Plant Health Inspection Service at \$35.6 million. The amendment also prohibits federal expenditures for the killing of animals such as coyotes, mountain lions, and foxes when they threaten livestock. The amendment does allow the Wildlife Service to continue non-lethal livestock predator control while not inhibiting private or state funded predator control.

**Mr. Pallone** may offer an amendment (#20) striking the section of the bill that requires any costs incurred from future Salmonella contamination testing regulations be defrayed. *Staff Contact: Ladeen Friemuth x5-4671*

**Messers. Stupak and Mr. Boehlert** may offer one or more amendments (#21, #30) that increases funding for the USDA's Food Donation Program (senior meal reimbursements) by \$20 million. The amendment offsets this increase by decreasing funding for the administrative expenses of carrying domestic food programs under the bill by \$30 million. *Staff Contact: Daphna Peled, x5-4735*

**Rep Tierney** may offer an amendment (#22) that earmarks \$500,000 of the bill's funding for the Agriculture Research Service for USDA to conduct a study on the health risks related to genetically engineered foods. Under the amendment, USDA and the National Academy of Sciences would have to investigate and report to Congress on the type of data and tests needed to sufficiently assess the human health risks from the consumption of genetically engineered foods; make recommendations for a federal monitoring system to assess future human health consequences from long term consumption of genetically engineered goods; and provide recommendations for a federal system to approve genetically engineered foods that are safe for human consumption. *Staff Contact: Barbara Weinsien 225-8020*

**Mr. Allen and Mr. Brown** may offer an amendment (#24, #32) that requires, upon Food and Drug Administration (FDA) approval of a new drug, the disclosure of the taxpayer funded contribution to the total cost of research and development of that drug. *Staff Contact: Beth Beaufang, x5-6116*

**Mrs. Clayton** may offer an amendment (#25) that allows \$5.4 million of the total funds made available for loans to section 502 borrowers to be used by the Secretary of Agriculture in North Carolina for a demonstration program to determine the timeliness, quality, suitability, efficiency, and cost of utilizing modular housing to re-house very low income elderly families who (1) have lost their housing because of a major disaster, or (2) do not have homeowner's insurance or cannot repay a direct loan that is provided under section 502 of the Housing Act of 1949 with the maximum subsidy allowed for such loans. Specifically, the amendment allows \$5 million for grants and \$400,000 for these families to acquire modular housing. *Staff Contact: Corliss James, x5-3101*

**Mr. Gutknecht** may offer an amendment (#27) prohibits funds in this Act from being used to enforce federal restrictions on allowing Americans to travel abroad to purchase their prescription drugs. *Contact: x5-2472*

**Mr. Crowley** may offer an amendment (#28) that increases funding for the Wildlife Service's Animal and Plant Health Inspection Service by \$5 and decreases the National Sheep Industry Improvement Center revolving fund by \$5 million. *Staff Contact: Kevin Casey 5-3965*

**Mr. Crowley** may offer an amendment (#29, #36) prohibits funds in this Act from being used to enforce federal restrictions on allowing Americans to travel abroad to purchase their prescription drugs. *Staff Contact: Kevin Casey 5-3965*

**Mrs. Clayton** may offer an amendment (#31) that provides \$5 million for the National Rural Development Partnership established in the Agriculture Department. *Staff Contact: Susan Kelly, x5-3101*

**Mr. Sanford** may offer an amendment (#33) that prohibits the use of funds in the bill for carrying out the non-needs based school breakfast pilot program, established as a part of the William F. Goodling Child Nutrition Reauthorization Act of 1998. *Staff Contact: Jim McGuire, x5-3176*

**Mr. Andrews** may offer an amendment (#34) that reduces the total amount provided for the Agriculture Research Service Cotton Research program by \$5 million and increases the Extension Service, consumer education program regarding the dangers of flammable children's cotton sleepwear by \$5 million. *Staff Contact: Matt Walker 225-6501*

**Mr. Brown (OH)** may offer an amendment (#37) that adds a general provision to Title IX of the bill that prohibits any of the funds appropriated in the bill from being used to approve any application for a new drug submitted by an entity that does not agree to publicly disclose, on a quarterly basis during the patent life of the drug, the average price charged by the manufacturer for the most common dosage of the drug (expressed as total revenues divided by the total units sold) in each country that is a member of the OECD. *Contact: x5-3041*

**Messrs. Brown (OH) and Waxman and Ms. Slaughter** may offer an amendment (#38) that directs the FDA to allocate an additional \$3 million for the Center for Veterinary Medicine (the bill appropriates an additional \$53 million for the FDA in FY 2001). *Staff Contact, x5-3401*

**Mr. Knollenberg** will offer an amendment (#41) that will add a provision to Section 734 stating that "the limitations established in this section shall not apply to any activity otherwise authorized by law." This will make section 734 of the bill identical to corresponding language passed by the House in the FY 2001 Energy and Water Appropriations Act. *Staff Contact: Aloysius Hogan, x5-5802*

**Mr. Kucinich** may offer an amendment (#42) that will dedicate \$500,000 of the FDA Salaries and Expenses account for the purpose of drafting guidance for industry on how to assess genetically engineered food products for allergenicity until a predictive testing methodology is developed, and for reporting to Congress on the status of the guidance by September 1, 2001. Also, the amendment requires that the funds are to be used for submitting a report to Congress by April 30, 2000 on research being conducted by the FDA and other federal agencies concerning the basic science of food allergy and testing methodology for food allergens, including a prioritized description of research needed to develop a predictive testing methodology for the allergenicity of proteins added to foods by genetic engineering. *Contact: x5-5871.*

**Messrs. Miller (FL) and Miller (CA)** may offer an amendment (#43) that would prevent USDA, through the Commodity Credit Corporation, from making further purchases of raw or refined sugar

in fiscal year 2001 beyond the \$54 million already expended. USDA has spent \$54 million in taxpayer dollars to purchase over 130,000 tons of sugar so far this year in an effort to prop up domestic sugar prices. **Staff Contact: Thad Bingel, x5-5015.**

**Messrs. Miller (FL) and Miller (CA)** may offer an amendment (#44) that would reduce funding for USDA's Commodity Credit Corporation by \$54 million, the amount of taxpayer dollars which the CCC has spent on sugar purchases so far this year. The amendment would then redistribute the offset \$54 million to increase other USDA priority accounts as follows: Increase funding for "Animal Plant Health Inspection Service (APHIS)" by \$2 million; increase funding for the "Natural Resource Conservation Service" account by \$5 million; increase funding for "Watershed and Flood Prevention Operations" by \$3.5 million; increase funding for "Rural Community Advancement Programs (RCAP)" by \$5 million; increase funding for "Rural Community Development Programs" by \$5 million; increase funding for "Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)" by \$1 million; increase funding for "Child Nutrition Programs" by \$5 million; increase funding for "Food Stamp Program" by \$15 million. **Staff Contact: Thad Bingel, x5-5015**

**Messrs. Miller (FL), Chabot and Royce** may offer an amendment (#46) that prevents any of the funds appropriated in the bill from being used by USDA to administer the issuance of nonrecourse loans to sugar producers, a key component of the price inflating domestic sugar program. **Staff Contact: Thad Bingel, x5-5015.**

**Mr. Miller (FL)** may offer an amendment (#47) that prevents any of the funds appropriated in the bill from being used by USDA to store, maintain, market, transport, donate, or otherwise dispose of the over 130,000 tons of sugar which USDA purchased through the Commodity Credit Corporation for \$54 million this year in an effort to prop up domestic sugar prices. **Staff Contact: Thad Bingel, x5-5015.**

**Mr. Sanford** may offer an amendment (#48) that eliminates payments to wool and mohair farmers wool used to be used to make military uniforms. Because of a fear of low-wool production, income support was given to wool and mohair farmers starting in 1954. Even though the Army changed to synthetic uniforms in 1960, the Wool and Mohair program continued until 1995. The Clinton Administration and Congress cut the wool and mohair program back in 1993 (it was phased out 12/31/95). This year, there is \$10 million in the recently passed crop insurance bill. This amendment seeks to keep that \$10 million from being used for that purpose. **Staff Contact: Jim McGuire, x5-3176**

**Mr. Sanford** may offer an amendment (#49) that freezes special grants for agricultural research (page 13, line 17) at FY2000 Level. Currently, the bill calls for a 24% increase to \$74.3 million, up from last year's \$59.9 million, for "special grants for agricultural research on improved pest controls". The administration budget called for this area to be funded at \$6.4 million. According to CRS, this is one of two areas of the agriculture budget in which members of Congress place preferred projects for their districts. This year, the bill includes \$15 million in new projects, none of which the Administration requested. USDA historically opposes most of these grants, since they are neither competitive, peer-reviewed, nor cover an issue of national importance. The Sanford Amendment would keep the special grants section at the FY00 level. **Staff Contact: Jim McGuire, x5-3176**

**Ms. Lowey** may offer an amendment to provide \$8.6 million for research to determine the source of the recent decline in the lobster population off the Long Island Sound. Additionally, the amendment provides \$19 million to provide relief to lobster fishermen in New York and Connecticut. *Staff Contact: Chris Kukla, x5-6506*

**Mrs. Clayton** may offer an amendment that provides an additional \$16 million for the Agriculture Secretary to carry out a demonstration program in North Carolina to determine the timeliness, quality, suitability, efficiency, and cost of utilizing modular housing to re-house very low income elderly families who (1) have lost their housing because of a major disaster, or (2) do not have homeowner's insurance or cannot repay a direct loan that is provided under section 502 of the Housing Act of 1949 with the maximum subsidy allowed for such loans. *Staff Contact: Susan Kelly, x5-3101*

**Mr. Hinchey** may offer an amendment to make technical corrections page 72 line 18. Included in the general provisions was a waiver allowing the village of Harris to apply for loans and grants under the Rural Community Advancement Program. The amendment would replace Harris, NY with Thompson, NY. *Staff Contact: Diane Miller, x5-6335*

**Ms. Jackson-Lee and Mrs. Clayton** may offer an amendment that adds \$4 million to the Cooperative State Research Education and Extension account and provide an additional \$2.8 million for colleges receiving benefits under the Second Merrill Act and offset these increases by reducing funds for the Agriculture Research Service. *Contact: x5-3101*

**Ms. Stabenow and Mr. Stupak** may offer an amendment that uses \$7.5 million from Community Credit Corporation funds to eradicate bovine tuberculosis. *Contact: x5-4872*

**Ms. Morella and Messrs. DeFazio and Bass** may offer an amendment that prevents the Wildlife Services Program (WS) from using funds to carry out predator control. The Wildlife Services Program currently uses predator control in order to protect the Nation's livestock from wild animals. The organization also protects natural ecosystems by maintaining species symmetry. *Staff Contact: Amelia Jenkins: x5-6416*

**Mr. Hayes** may offer one or more amendments that strike a provision in Title I – Agricultural Programs – of the bill that prohibits funds in the bill from being used to carry out research related to the production, processing, or marketing of tobacco or tobacco products. *Staff Contact: Tim Peters, x5-3715*

**Mr. Hayes** may offer an amendment that adds an administrative provision to Title I – Agricultural Programs – of the bill specifying that any limitation on funds to carry out research related to the production, processing, or marketing tobacco or tobacco products will not apply to research on the medical, biotechnological, food, drug and industrial uses of tobacco products. *Staff Contact: Tim Peters, x5-3715*

**Messrs. Chabot, Weiner, Royce, and Bass** may offer an amendment to prohibit new allocations under the Market Access Program (MAP). In the legislation, the MAP program is allocated \$90 million. MAP funds are used to subsidize large agricultural conglomerates for the overseas promo-

tion and advertising of their products. Proponents of the amendment contend that the MAP program is corporate welfare, and the GAO concluded that the economic benefits of the program are uncertain at best. **Contact: Brian Griffith or Kyle Wilcox, x5-2216**

**Messrs. Chabot and Deutsch** may offer an amendment to strike sec. 741 of the bill, thereby maintaining the current prohibition on taxpayer subsidies for the overseas marketing of luxury mink products through the Market Access Program (MAP). Congress passed a ban on MAP funds being used to promote luxury mink products in 1995. However, the bill waives this prohibition and would again allow funding for mink marketing. Proponents of the amendment contend that the prohibition in current law should be maintained so that U.S. tax dollars are not used to promote the sale of luxury mink products overseas. **Contact: Brian Griffith or Kyle Wilcox, x5-2216**



## **FY 2001 Military Construction Appropriations Act (Conference Report)**

### **Floor Situation:**

The House is scheduled to consider the conference report to H.R. 4425 on Thursday, June 29 or Friday, June 30, 2000. Conference reports are privileged and may be considered any time three days after they are filed. They are debatable for one hour and may not be amended. At press time, the Rules Committee had not granted a rule on H.R. 4425. Additional information about the floor situation will be available in a *FloorPrep* prior to consideration of the bill on the House floor.

### **Summary:**

The conference report to H.R. 4425 appropriates \$8.8 billion in FY 2001—\$200 million more than the House-passed bill, \$493 million more than last year, and \$800 million more than the president's request—for military construction activities of the Department of Defense. Specifically, the conference report provides (1) \$4.2 billion for domestic and overseas military construction projects (\$491 million more than the House-passed bill and \$206 million more than last year); (2) \$3.6 billion for military family housing (\$47 million more than the House-passed bill and \$6 million less than last year), which includes \$2.7 billion for operation and maintenance of existing units; (3) \$1 billion for base realignment and closure accounts (\$150 million less than the House-passed bill); and (4) \$172 million for NATO Security Investment Program (\$6 million less the House-passed bill). Although the overall amounts are approximately the same as in the House-passed bill, some of the priorities and specific projects funded by the report differ.

The conference report includes a few major changes from the House-passed bill. Specifically, the conference report provides:



- \* \$1 billion for Base Realignment and Closure accounts, \$150 million less than the House-passed bill;
- \* \$693 million for the National Guard and Reserves accounts, \$235 million more than the House-passed bill;
- \* \$3.5 billion for military construction for the active forces and defense agencies (excluding Guard and Reserve), \$326 million less than the House-passed bill;
- \* \$100 million reduction to previous Military Construction Appropriations Acts and \$83 million reduction to foreign currency fluctuation accounts not included in the House-passed bill.

The conference agreement includes the Senate level of \$85 million, \$20 million more than the House-passed level, to begin building radar sites in Alaska for the national missile defense system.

### **Legislative History:**

The House passed H.R. 4425 on May 16 by a vote of 386-22. The Senate passed S. 2551 on May 18 by a vote of 96-4.

### **Additional Information:**

To see how H.R. 4425 passed the House, see *Legislative Digest* Vol. XXIX, #13, May 12, 2000.



## **H.R. 1304—Quality Health-Care Coalition Act of 2000**

### **Floor Situation:**

The House is scheduled to consider H.R. 1304 on Thursday, June 29, 2000. Yesterday, the Rules Committee met and granted a structured rule waiving all points of order against the bill and provides one hour of general debate equally divided between the chairman and the ranking minority member of the Committee on the Judiciary. The rule makes in order the committee amendment in the nature of a substitute as base text subject to further amendment and waives all points of order against the committee substitute. Only amendments printed in the Rules Committee report are in order, all points of order against the amendments are waived and they may be offered only in the order printed in the report by a Member designated. Such amendments will be considered as read and shall be debatable for the time specified in the report, the time to be equally divided and controlled, not subject to amendment or subject to division. The Chairman of the Committee of the Whole may postpone votes and reduce voting time from 15 minutes to five minutes, if the five minute vote follows a 15-minute vote. The rule provides for one motion to recommit, with or without instructions.

## **Summary:**

H.R. 1304 applies the federal antitrust laws to negotiations between groups of health care professionals and health plans and health insurance issuers in the same manner that these laws apply to collective bargaining by labor organizations under the National Labor Relations Act. The core provision of the bill, as reported by the committee, places health care professionals who are engaged in negotiations with a health plan regarding the terms of any contract for goods or services on the same status as union employees who negotiate wage and working conditions with their employers. The bill provides protections to health care professionals from liability for good faith actions and is effective for three years (3-year sunset provision), after which it will be reviewed to determine whether it should be extended. Contracts executed prior to the end of the 3-year period continue to apply for one year.

## **Background:**

Most Americans receive their health care services through large, managed health care plans, however, serious questions have arisen about the quality and cost of the health care patients are receiving under these plans. More problematic is the concentration of the health care industry in recent years. During the past decade there have been more than 162 mergers of health care providers. Adding to this concentration within the industry is the McCarran-Ferguson Act which provides that “No Act of Congress shall be construed to invalidate, impair or supersede any law enacted by any State for the purpose of regulating the business of insurance...unless such Act specifically relates to the business of insurance.” The result of this law is that most regulation of the insurance industry has been left to the states and provides increased opportunities for insurance companies to exercise market power over both patients and their doctors and other health care providers. So while the antitrust laws may not specifically relate to the McCarran-Ferguson Act, existing case law suggests that the Act does not either permit or authorize insurance companies to merge or acquire or maintain market power.

The antitrust laws exempt the labor of “a human being” and specifically authorize the formation and existence of labor unions. Under the National Labor Relations Act (29 U.S.C. 157) and sections of the Norris-LaGuardia Act (29 U.S.C. 101-115) employees are granted collective bargaining rights which permits them to negotiate with their employers. H.R. 1304 extends this “authorization” or exemption from the antitrust laws to non-employee, independent physicians and other health-care professionals. It creates a legal fiction that for purposes of joint negotiations with non-federally affiliated health care plans, physicians and other health-care providers are “employees” as recognized under the federal labor laws (NLRB Act). There is one difference in that H.R. 1304 expressly does “not confer any right” to participate in any collective cessation of service to patients (section 2(c)(1)). It also protects good faith actions by those negotiating from any civil or criminal liability under the antitrust laws (section 3(b)). There is no limitation on the subjects that may be negotiated so fees could be a part of negotiations with health plans although some state laws impose certain limitations. The negotiating authority granted by H.R. 1304 sunsets in 3 years after which the General Accounting Office is to study the impact of the legislation and make recommen-

dations with regard to its continuation.

### **Arguments For and Against the Bill**

Health care providers are also subject to increasing controls by insurers and HMOs that keep prices so low doctors cannot practice economically. Most importantly, providers argue that in negotiating contracts with insurers and HMOs they have much greater bargaining power than do individual providers. Thus, providers contend, H.R. 1304 will level the negotiating playing field which will better serve patients because it will allow providers to seek contracts that give insurers less control over patient care.

Critics of the bill believe consumers will be harmed by this legislation because it will permit providers to fix prices through group boycotts and drive up insurance costs and reduce federal revenues because the higher cost of insurance results in higher deductibles (thereby reducing income subject to tax). Opponents of H.R. 1304 also contend that current FTC and Justice Department antitrust guidelines permit providers to join together to negotiate directly with employers if they want better contracts with insurers. Finally, critics are concerned that the bill will impede competitive market forces that control health care costs and encourage efficiency.

### **Costs/Committee Action:**

The Congressional Budget Office (CBO) performed an extensive analysis of H.R. 1304 and its potential costs. The entire CBO analysis is set forth in the Committee report (pp. 19-28 of H.Rept. 106-625). CBO estimates that federal tax revenues would fall by \$145 million in 2001 and by a total of \$3.6 billion over the period of 2001-2010. The bill directly affects spending and revenues of the federal government, thus pay-as-you-go procedures would apply.

The Committee ordered the bill reported on March 30, 2000 by a vote of 26-2.

### **Amendments Made in Order Under the Rule**

**Mr. Ballenger** amendment (#8) would not allow the antitrust exemption provided under the bill to apply to (1) any negotiations with a health plan regarding or related to fees, payments or reimbursement between health care professionals and health plans, (2) any negotiations to permit health care professionals to balance bill patients, (3) to health care professionals who have not submitted to and received from the Secretary of HHS on a plan to reduce medical errors, (4) health care professionals fail to notify patients of their participation in exempt negotiations, and (5) health care professionals who engaged in boycotts of health plans. **(20 minutes) Staff Contact: Greg Maurer, x5-2576**

**Mr. Stearns** amendment exempts groups of health care professionals engaged in negotiations with health plans from federal antitrust laws if the FTC or the Department of Justice has certified that such negotiations would promote competition and enhance the quality of patient care. Groups representing fewer than 20% of the health care professionals in a specialty in a market area would get an antitrust exemption without having to obtain approval from the FTC or DOJ. Finally, the amendment clarifies that the bill does not create any legal right for such groups of health care profession-

als to engage in boycotts, coercive behavior or engage in a collective cessation of service to patients. **(10 minutes)** *Contact: x5-5744*

**Mr. Cox** amendment providing that a physician may not be forced to join a union as a condition of employment by a health plan. **(10 minutes)** *Staff Contact: Cheryl Jaeger, x5-5611*

**Mr. Terry** amendment that prevents doctors, or any health care professional covered in the bill, from using the bill language to negotiate fees **(10 minutes)** *Staff Contact: Trip Radtke, x5-4155*

**Mr. Coburn:** that exempts discussions regarding requiring abortion coverage from collective bargaining negotiations. **(20 minutes)** *Staff Contact: Roland Foster, x5-2701*

**Mr. Davis (IL)** amendment that is a Sense of Congress that medical decisions regarding treatment should be made by the physician or health care professional and the patient. **(10 minutes)** *Contact: x5-5006*



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